

Worksession

Agenda Item #	9
Meeting Date	April 14, 2008
Prepared By	Jessie Carpenter City Clerk
Approved By	Barbara B. Matthews City Manager

Discussion Item	Update from the Nuclear-Free Takoma Park Committee
Background	The Nuclear-Free Takoma Park Committee was established in 1985 to oversee implementation of and adherence to the Nuclear-Free Zone Act. The Committee is to consist of seven Takoma Park residents appointed to staggered two-year terms. Terms have expired. A resolution providing for reappointments will be scheduled later this month.
Policy	Committees report to the Council at least once each year.
Fiscal Impact	N/A
Attachments	<ul style="list-style-type: none">• Committee roster• Takoma Park Code, Chap. 14.04 Nuclear-Free Zone
Recommendation	Receive the report.
Special Consideration	

NUCLEAR-FREE TAKOMA PARK COMMITTEE
(two-year terms)

(April 2008)

NAME	WARD	TERM EXPIRES
Linda Gunter	Ward 1	3/31/07
Jim Kuhn	Ward 4	3/31/08
Jay Levy (Chairperson)	Ward 1	3/31/08
Robert Rini	Ward 1	3/31/08
VACANT		3/31/08
VACANT		3/31/07
VACANT		3/31/07

Title 14 HEALTH AND SAFETY

Chapter 14.04 NUCLEAR-FREE ZONE

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14.04.010 Title.

This chapter shall be known as the "Takoma Park Nuclear-Free Zone Act." (Prior code § 8A-1)

14.04.020 Purpose.

The purpose of this Act is to establish the City as a nuclear-free zone in that work on nuclear weapons is prohibited and that harmful exposure to high-level nuclear waste is limited within the City limits. Citizens and representatives are urged to redirect resources previously used for nuclear weapons and nuclear power generation towards endeavors which promote and enhance life, such as human services, including child care, housing, schools, health care, emergency services, public transportation, energy conservation, public assistance and jobs. (Ord. 2005-29 (part), 2005: prior code § 8A-2)

14.04.030 Findings.

It is the finding of the Mayor and Council of the City, that:

A. The nuclear arms race has been accelerating for more than 1/3 of a century, draining the world's resources and presenting humanity with the ever mounting threat of nuclear holocaust.

B. There is no adequate method to protect Takoma Park residents in the event of nuclear war.

C. Nuclear war threatens to destroy most higher life forms on this planet.

D. The use of resources for nuclear weapons prevents these resources from being used for other human needs, including jobs, housing, education, health care, public transportation and services for youth, the elderly and the disabled.

E. The United States, as a leading producer of nuclear weapons, should take the lead in the process of global rejection of the arms race and the elimination of the threat of impending holocaust.

F. An emphatic expression of the feelings on the part of private citizens and local governments can help initiate

such steps by the United States and the other nuclear weapons powers.

G. Takoma Park is on record in support of a bilateral nuclear weapons freeze and has expressed its opposition to civil-defense crisis relocation planning for nuclear war.

H. The failure of governments of nuclear nations adequately to reduce or eliminate the risk of ultimately destructive nuclear attack requires that the people themselves, and their local representatives, take action.

I. In view of the Nuremberg Principles, which hold individuals accountable for crimes against humanity, and the illegality of nuclear weapons under international law, in adopting this chapter, this community seeks to end its complicity with preparations for fighting a nuclear war.

J. The production of nuclear energy creates highly radioactive nuclear waste whose transportation through the City creates substantial risk to the public safety and welfare of the City. (Ord. 2005-29 (part), 2005/prior code § 8A-3)

14.04.040 Nuclear facilities prohibited.

A. The production of nuclear weapons shall not be allowed in the City. No facility, equipment, components, supplies or substance used for the production of nuclear weapons shall be allowed in the City.

B. No person, corporation, university, laboratory, institution or other entity in the City knowingly and intentionally engaged in the production of nuclear weapons shall commence any such work within the City after adoption of this chapter. (Prior code § 8A-4)

14.04.050 Investment of City funds.

The City Administrator in conjunction with the Nuclear-Free Takoma Park Committee shall propose, within 6 months of the Committee's creation, a socially responsible investment policy and implementation plan, specifically addressing any investments the City may have or may plan to have in industries and institutions which are knowingly and intentionally engaged in the production of nuclear weapons. The proposed policy and plan shall be presented to the Mayor and Council, who shall conduct a public hearing on the policy and plan before considering it for adoption. (Prior code § 8A-5)

14.04.060 Eligibility for City contracts.

A. The City and its officials, employees or agents shall not knowingly and intentionally grant any award, contract or purchase order, directly or indirectly, to any nuclear weapons producer.

B. The City and its officials, employees or agents shall not knowingly and intentionally grant any award, contract or purchase order, directly or indirectly, to purchase or lease products produced by a nuclear weapons' producer.

C. The recipient of a City contract, award or purchase order shall certify to the City Clerk by a notarized statement that it is not knowingly or intentionally a nuclear weapons' producer.

D. The City shall phase out the use of any products of a nuclear weapons' producer which it owns or possesses. Insofar as non-nuclear alternatives are not available, for the purpose of maintaining a product during its normal useful life and for the purpose of purchasing or leasing replacement parts, supplies and services for such products. Subsections (A) and (B) of this section shall not apply.

E. The City Council, upon advice of the Nuclear-Free Takoma Park Committee, shall within 6 months of its appointment and annually thereafter establish and publish a list of nuclear weapons' producers to guide the City, its officials, employees and agents in the implementation of subsections (A) through (C) of this section. The list shall not preclude application or enforcement of these provisions to or against any other nuclear weapons' producer.

F. Waivers.

1. The provisions of subsections (A) and (B) of this section may be waived by resolution passed by a majority vote of the Mayor and Council, provided that:

a. The Mayor and Council shall determine, after a diligent good-faith search, that a necessary good or service cannot reasonably be obtained from any source other than a nuclear weapons' producer;

b. The City Administrator or his or her designee shall notify the Nuclear-Free Takoma Park Committee of the Mayor and Council's intent to consider a waiver resolution 30 days prior to the formal consideration of such a resolution and that the Committee, upon receipt of such notice, shall provide the City Council with its considered advice; provided, however, that failure to provide such advice shall not prohibit the City Council from taking appropriate action after the 30-day notification period; and

c. The City Council shall hold a public hearing prior to the passage of a waiver resolution and no sooner than

30 days after the notification to the Committee of the City Council's intent to consider such a resolution.

2. The reasonableness of an alternative source shall be determined upon the consideration of the following factors:

- a. The intent and purpose of this chapter;
- b. Documented evidence establishing that the necessary good or service is vital to the health or safety of the residents or employees of the City, with the understanding that the absence of such evidence shall diminish the necessity for waiver;
- c. The recommendations of the City Administrator and the Nuclear-Free Takoma Park Committee;
- d. The availability of goods or services from a non-nuclear-weapons' producer reasonably meeting the specification or requirements of the necessary good or service;
- e. Quantifiable substantial additional costs that would result from the use of a good or service of a non-nuclear-weapons' producer, provided that this factor shall not become the sole consideration. (Prior code § 8A-6)

14.04.070 Exclusions.

A. Nothing in this chapter shall be construed to prohibit or regulate the research and application of nuclear medicine or the use of fissionable materials for smoke detectors, light-emitting watches and clocks and other applications where the purpose is unrelated to the production of nuclear weapons. Nothing in this chapter shall be interpreted to infringe upon the rights guaranteed by the first amendment to the United States Constitution nor upon the power of Congress to provide for the common defense.

B. Nothing in this chapter shall be interpreted, construed or applied to prevent the Mayor and Council or the City Administrator or his or her designee of the City, from acting to remedy, ameliorate or prevent an emergency situation presenting a clear and present danger to the public health, safety and general welfare, as defined in Section 2-6.1 of this Code, provided that should any such emergency situation require the purchase of products or services from or entry into a contract with a nuclear weapons producer, then the City Administrator or his or her designee shall notify the Chairperson or his or her designee of the Nuclear-Free Takoma Park Committee within 3 working days of the City's actions.

C. Nothing in this chapter shall be interpreted, construed or applied to supersede or bypass any procurement regulations, whether those regulations are legislative or administratively promulgated; provided, however, that no procurement regulations pertaining to the granting of any award, contract or purchase order shall alter or abrogate the intent or requirements of this chapter. (Prior code § 8A-7)

14.04.080 Violations and penalties--Other remedies.

A. Any violation of this chapter shall be a Class B offense.

B. Without limitation or election against any other available remedy, the City or any of its citizens or any other aggrieved party may apply to a court of competent jurisdiction for an injunction enjoining any violation of this chapter. The court shall award attorney's fees and costs to any party who succeeds in obtaining an injunction hereunder. (Prior code § 8A-8)

14.04.090 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

"Component of a nuclear weapon" is any device, radioactive substance or nonradioactive substance designed knowingly and intentionally to contribute to the operation, launch, guidance, delivery or detonation of a nuclear weapon.

"Nuclear weapon" is any device the sole purpose of which is the destruction of human life and property by an explosion resulting from the energy released by a fission or fusion reaction involving atomic nuclei.

"Nuclear weapons producer" is any person, firm, corporation, institution, facility, parent or subsidiary thereof or agency of the Federal government engaged in the production of nuclear weapons or their components.

"Production of nuclear weapons" includes the knowing or intentional research, design, development, testing, manufacture, evaluation, maintenance, storage, transportation or disposal of nuclear weapons or their components.

A "product produced by a nuclear weapons producer" is any product which is made wholly or primarily by a nuclear weapons' producer, except that products which, prior to their intended purchase by the City, have been previously owned and used by an entity other than the manufacturer or distributor; such products shall not be considered produced by a nuclear weapons' producer if, prior to their purchase by the City, more than 25% of the useful life of such product has been used or consumed, or within one year after it has been put into service

by the previous nonmanufacturer owner. The “useful life of a product” shall be defined, where possible, by the applicable rules, regulations or guidelines of the United States Internal Revenue Service. (Prior code § 8A-9)

14.04.100 Notification.

A. Upon adoption of this chapter and annually thereafter, the Mayor and Council shall present a true copy of this chapter to the President of the United States, to the Premier of the Union of Soviet Socialist Republics, to the ambassadors of all nations at that time possessing nuclear weapons, to the Secretary-General of the United Nations and to the Director of the International Atomic Agency.

B. In addition, true copies of this chapter shall be sent to the Governor of the State of Maryland, to the United States Senators from Maryland, to the United States Representatives representing Takoma Park, to our State Delegates and Senators, to the County Executives of Montgomery and Prince George’s Counties and to the Councilmembers of the respective Counties.

C. The Mayor and Council of Takoma Park, Maryland, shall choose a Town or City of approximately 17,000 inhabitants within 20 miles of Moscow or some other City or Town in the Union of Soviet Socialist Republics, as the Mayor and Council may deem appropriate, and shall send a true copy of this Takoma Park chapter and a letter urging the chosen Town to take similar action. (Prior code § 8A-10)

14.04.110 Nuclear-Free Takoma Park Committee.

A. Within 60 days of the effective date of this chapter, the Mayor shall appoint, with the approval of the City Council, a nonpartisan Nuclear-Free Takoma Park Committee to oversee implementation of and adherence to this Act. The Committee shall consist of seven Takoma Park residents, with staffing to be provided by the City Administrator. Committee members shall have collective experience in the areas of science, research, finance, law, peace and ethics.

B. Residents appointed to the Committee shall serve 2-year terms, except that 3 of the initial appointees as designated by the Mayor and Council shall serve one-year terms. The terms shall begin on April 1st and end on March 31st. The Committee shall appoint its own chair and establish its own bylaws, both subject to approval by the Mayor and Council.

C. The Committee shall have the following duties and responsibilities:

1. The Committee may review any work within the City which it has reason to believe is not in compliance with Section 14.04.040 of this Act. The Committee shall inform appropriate legal authorities of suspected violation of this Act.

2. The Committee shall review existing City contracts, awards, purchase orders and investments and may review proposed contracts, awards, purchase orders and investments to assure compliance with Sections 14.04.050 and 14.04.060 of this Act. If the Committee finds any contracts, awards, purchase orders or investments in violation of this Act, it shall, in conjunction with the City Administrator, make recommendations to the Mayor and Council regarding the existence of reasonable alternatives.

3. The Committee, in conjunction with the City Administrator, shall propose a socially responsible investment policy and implementation plan as specified in Section 14.04.050 and, upon the adoption of the policy and plan, shall annually thereafter review the investment policy to ensure its conformity to this Act.

4. The Committee shall, through the collection of materials, newsletter articles, cable television programming, public forums and other means, provide public education and information on issues related to the intent and purpose of this Act. In performing this task, the Committee shall cooperate with City staff, the Nuclear Freeze Task Force and other interested community groups and individuals.

5. The Committee shall maintain a collection of current materials concerning the production of nuclear weapons and the components thereof and the transportation of high-level nuclear waste resulting from the production of nuclear weapons and nuclear energy. From this information and from consultations with individuals and organizations involved in the nuclear weapons and nuclear energy debate, the Committee shall annually prepare and report to the City Council a list of nuclear weapons producers to guide the City, its officials, staff and agents in the implementation of Sections 14.04.050 and 14.04.060 of this Act. The Committee shall also make recommendations to the City Council from this information and from consultations with individuals and organizations involved in the transportation of high-level nuclear waste on how best to promote the safety and welfare of the City from harmful exposure to high-level nuclear waste.

6. Before a waiver of the provisions of Sections 14.04.060(A), (B) or (C) above pursuant to Section 14.04.060 (F) may be sought, the Committee, in conjunction with the City Administrator or his or her designee, shall conduct a diligent search to determine the availability of reasonable alternative sources for a necessary product or service, except, however, the City Administrator or his or her designee and/or the Committee’s unwillingness or inability to conduct such a search shall not preclude actions by the Mayor and Council pursuant to Section

14.04.060(F). (Ord. 2005-29 (part), 2005/prior code § 8A-12)

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